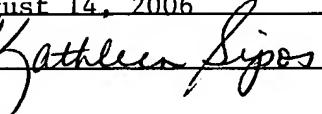


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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 944-015.003
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		Filed Nov. 25, 2003
		First Named Inventor K. LI
Art Unit 2617	Examiner Anthony S. Addy	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.
 assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
 attorney or agent of record.
Registration number _____
 attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 58,051



Signature

Keith R. Obert

Typed or printed name

203-261-1234

Telephone number

August 14, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No: 944-015.003
Serial No.: 10/723,138

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of: **K. LI**

USSN: **10/723,138**

Filed: **November 25, 2003**

Docket Number: **944-015.003**

For: **DYNAMICALLY TUNED ANTENNA USED FOR MULTIPLE PURPOSES**

Examiner: **Anthony S. Addy**

Mail Stop AF
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

This Pre-Appeal Brief Request for Review is filed in response to the final Office Action of April 7, 2006.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, Alexandria, VA 22313-1450


Kathleen Sipos
Dated: Aug. 14, 2006

REMARKS

Claim 1-24 are pending in the application, and all claims are rejected. The independent claims are claims 1, 17, 21, 22 and 24. Applicant respectfully requests review of the final rejection of April 7, 2006 in light of the following remarks. The review is requested because the Office has failed to establish a *prima facie* case of obviousness. The Office has failed to show that the cited references, alone or in combination, disclose or suggest all of the limitations recited in the claims, and the Office has also failed to show motivation to combine the cited references. See MPEP § 2143. This request for review is submitted with a Notice of Appeal.

Independent claim 1 is directed to effectuating receive diversity within a mobile communication device. Receive diversity uses two different antennas to enable stronger links and faster data transmission rates. See paragraph [0009] of the published application (No. 2005/0113133). Receive diversity requires that each antenna receives the same frequency band. Therefore, as recited in claim 1 a first antenna facilitates reception of signals in a band, and the second antenna can also facilitate reception of signals in the same band received by the first antenna. The tuning of the second antenna depends on the signal type relayed to the second antenna. Since the second antenna can be dynamically tuned to receive signals in at least one of the same bands as the first antenna and a GPS band, there is no need for an additional antenna dedicated to receive diversity.

In contrast, simply because a cellular phone can operate in multiple bands does not mean that the cellular phone can effectuate receive diversity reception. A multiband cellular phone is able to roam between different operating frequencies dependent upon operator networks or the geographic location of the device, but the general multiband cellular is incapable of effectuating receive diversity because the phone does not contain a second antenna that facilitates reception of signals in one band and at least one of the bands received by the first antenna, wherein the second antenna is tuned depending on the signal type relayed to the second antenna, as recited in claim 1. Applicant respectfully submits that the cited

references, alone or in combination, do not disclose or suggest all of the limitations recited in claim 1.

First, on page 5 of the final Office Action of April 7, 2006 the Office acknowledges that Yoshida (U.S. Appl. Publ. No. 2002/0081987) fails to teach a second antenna that facilitates reception of signals in a GPS band and at least one of the bands received by the first antenna, wherein tuning of the second antenna depends upon a signal type relayed to the second antenna. The Office relies on Standke (U.S. Patent No. 6,694,150) for this teaching. However, Standke also fails to disclose or suggest this limitation recited in claim 1.

Standke relates to a wireless telephone with GPS and Bluetooth capabilities with only a single external antenna. See Standke column 1, lines 34-36. In the first embodiment disclosed in Standke, the external antenna is tuned to access both telephone and GPS signals, and the internal antenna is used for Bluetooth. In the second embodiment, the external antenna is used for operation in two telephone bands, and the internal antenna is used for GPS and Bluetooth. In the third embodiment, two internal antennas are used, one for GPS and the other for Bluetooth. In all of the embodiments only one antenna is used to receive either a telephone, GPS or Bluetooth signal. In contrast, in claim 1 because tuning of the second antenna depends upon a signal type relayed to the second antenna, and the second antenna can facilitate reception of signals in the bands received by the first antenna, it is possible to have two antennas receiving on the same band, thus effectuating receive diversity.

In the Advisory Action of July 13, 2006 the Office asserts that Standke teaches a multiple band wireless telephone with multiple antennas. However as stated above claim 1 recites that the second antenna can be used to facilitate reception of signals in at least one of the bands received by the first antenna. Therefore, it is irrelevant that a single antenna disclosed in Standke can receive on multiple bands or even GPS signals, because no two antennas in any of the embodiments discussed in Standke are configured to receive on the same band. Therefore, the Office has failed to make a *prima facie* case for obvious because the cited references fail to disclose or suggest all of the limitations recited in claim 1.

Second, as discussed on page 4, paragraphs 2 and 3 of Applicant's Response submitted June 7, 2006 there is no motivation to combine the teachings of Standke and Yoshida to produce a system that effectuates receive diversity wherein tuning of the second

antenna depends upon a signal type relayed to the second antenna, as recited in claim 1. The Office is referred to the arguments previously presented in these paragraphs of Applicant's Response of June 7, 2006. Therefore, applicant respectfully submits that the combination of references is based upon the applicant's own disclosure and the result of impermissible hindsight reasoning. See MPEP § 2142. In view of the arguments stated above, applicant respectfully request withdrawal of the rejection to claim 1.

The same remarks made above in connection with the obviousness rejection of claim 1 applies to the other independent claims 17, 21, 22 and 24 rejected on the same grounds, and withdrawal of the rejection thereof is requested.

As for the dependent claims 2, 5-11, 13, 14, 16, and 18-20, the same reasoning applies equally to these claims as advanced above in connection with the independent claims from which they depend and withdrawal of the obviousness rejection thereof for at least these same reasons is also requested.

At section 6, page 14 of the final Office Action claims 3, 4, 15 and 23 are rejected under 35 U.S.C. § 103(a) as unpatentable over Yoshida and Standke, in further view of Eggleston (U.S. Patent No. 6,414,640). These dependent claims are at least patentable in view of their dependencies, and withdrawal of the obviousness rejection thereof is also requested.

Conclusion

Therefore, applicant respectfully requests review and withdrawal of the final rejection in light of the above arguments, and respectfully submits that the present application is in condition or allowance and such action is earnestly solicited. The undersigned hereby

authorizes the Commissioner to change any fee deficiency required to submit this request to deposit account number 23-0442.

Respectfully submitted,



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Date: 14 August 2006

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